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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,294	04/09/2004	George R. Borden IV	KLR7146.0214	1108
55648 7590 07/24/2008 KEVIN L. RUSSELL CHERNOFF, VILHAUER, MCCLUNG & STENZEL LLP 1600 ODS TOWER 601 SW SECOND AVENUE PORTLAND, OR 97204				
EXAMINER CZEKAJ, DAVID J				
ART UNIT 2621		PAPER NUMBER		
MAIL DATE 07/24/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/821,294

Applicant(s)

BORDEN ET AL.

Examiner

DAVID CZEKAJ

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE-US)
Paper No(s)/Mail Date 12/31/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

On page 2, applicant argues that since Loveland discloses increasing the magnification when the confidence decreases teaches away from the claimed invention. While the applicant's points are understood, the examiner respectfully disagrees. The examiner relied upon Loveland to teach a generic alteration of the magnification level in response to a change in level of confidence. While Loveland teaches decreasing the magnification, adjusting (increasing and decreasing) magnification in response to certain events is well known in the art. Further, under KSR, all the elements are known, could have been combined without any change of function, and would give predictable results. Thus, this is simply a modification of equivalent parts, not a teaching away. Therefore the rejection has been maintained.

On pages 2-3, applicant argues that Yu fails to disclose increasing the magnification when the confidence decreases. While the applicant's points are understood, the examiner respectfully disagrees. See for example Yu column 6, lines 36-43. There Yu discloses that when an object has moved farther away, increasing the magnification of the camera. When an object is moving further away from the system, the object appears smaller thus making the object more difficult to track (of type of drop in confidence of the tracking system). Further the examiner relied upon Loveland to teach the specifics of the confidence level. The examiner only cited the type of confidence level shown in Yu to indicate a correlation between the two references for a

more consistent read between Loveland and Yu. Therefore the rejection has been maintained.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loveland (6437819) in view of Yu (5434621).

Regarding claim 27, Loveland discloses an apparatus that relates to video surveillance (Loveland: column 1, lines 5-7). This apparatus comprises "monitoring a level of confidence that the tracking system is tracking a target" (Loveland: figure 7, wherein monitoring a level of confidence is determining if a good match has been found) and "altering magnification of an image visible to the operator in response to a change in the level of confidence" (Loveland: figure 7, wherein altering the magnification is zooming out when a good match has not been found). However, Loveland fails to disclose increasing the magnification in response to a decrease in the confidence level. Yu teaches increasing the magnification when the confidence level decreases (Yu: column 6, lines 36-43, wherein the increase in magnification is driving the zoom motor in the TELE direction. The confidence level is the comparison of the focus count which indicates the object is moving away or the confidence level is decreasing).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Loveland and add the zoom processing taught by Yu in order to obtain an apparatus that can successfully track both objects moving away and moving toward the scene being monitored.

Regarding claim 28, Loveland in view of Yu disclose "the magnification is changed incrementally as the level of confidence decreases" (Loveland: column 4, lines 55-59, wherein the magnification, or zoom, is decreased when the system detects the shopper has become temporarily obscured indicating a change in the level of confidence; Yu: column 6, lines 36-43, wherein the incremental change is only varying the zoom by the amount equal to the variation detected).

Regarding claim 29, Loveland in view of Yu disclose "the magnification is increased when the confidence level falls below a first threshold and decreased when the confidence level falls below a second threshold less than the first threshold" (Loveland: figure 7, column 4, lines 55-59; Yu: figures 2-3; column 5, lines 45-57; column 6, lines 36-43).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID CZEKAJ whose telephone number is (571)272-7327. The examiner can normally be reached on Mon-Thurs and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 2621

/Dave Czekaj/

Primary Examiner, Art Unit 2621